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# Congress of the United States

## House of Representatives

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### Opening Statement

**Rep. Elijah Cummings**

**Ranking Member, Committee on Oversight and Government Reform**

**Hearing on “TSA Oversight Part I: Whole Body Imaging”  
Subcommittee on National Security, Homeland Defense, and Foreign Operations**

**March 16, 2011**

This hearing raises important questions about the United States’ last line of defense against terrorists who target our nation. Before I address the substance of today’s hearing, however, I want to address why the two TSA witnesses are not here.

Mr. Chairman, there is no mystery to their absence. On Monday, TSA Administrator John Pistole sent a letter to the Subcommittee explaining exactly why both TSA officials, Mr. Kane and Mr. Kair, would not be here to testify. I ask unanimous consent that Mr. Pistole’s letter be made part of the hearing record. Here is what he said:

I am committed to working with Members of Congress and Committee members in their efforts to conduct oversight and enhance the ability of TSA to fulfill its mission—and this hearing is no exception. I am willing to provide the requested witnesses at the requested time. However, I have strong concerns over the Subcommittee’s intention to seat Mr. Kane and Mr. Kair alongside a non-governmental witness who represents the Electronic Privacy Information Center, an organization that has multiple lawsuits pending against the agency.

Mr. Pistole then went on to describe five different lawsuits that EPIC filed against TSA. He concluded that “it would be inappropriate to place both sides of a lawsuit on the same panel at a public hearing to discuss matters subject to litigation.” And he offered to make these TSA officials available on a different panel or even a different day.

Mr. Chairman, I take no position on the merits of EPIC’s lawsuits, but I have heard no rational explanation for refusing Mr. Pistole’s request. And I have heard no rational reason for abandoning the longstanding congressional practice of allowing agency officials to testify on their own panels. In 65 hearings held by this Subcommittee over the last two Congresses, only twice have government witnesses not had their own panels.

By refusing to accommodate Administrator Pistole's request in this specific case, we distract from the real issues before us today. Frankly, it is impossible to conduct responsible oversight of TSA when TSA is not here.

On the substance of today's hearing, we all share the same goal – keeping airline passengers safe and secure with as little inconvenience or invasion of privacy as possible. The “whole body imaging” technology we are examining was introduced following a terrorist attempt to blow up a Northwest Airlines flight in December 2009 using non-metallic explosives. In response to the threat posed by the Christmas Day bomber and others, TSA introduced a number of new security measures, including “whole body imaging.” Congress fully supported this effort by funding the procurement of hundreds of these machines.

Because the TSA witnesses are not here to speak for themselves, let me read from their written testimony, which I would like to submit for the record. Here is what they stated:

Based upon our analysis of the latest intelligence, and after studying available technologies and other processes, TSA has concluded that [Advanced Imaging Technology] is an effective method to detect threat items concealed on passengers while maintaining efficient checkpoint screening operations. ... TSA continually evaluates these technologies, their software, and associated screening procedures to ensure that they are effective against established and anticipated threats, while continuing to protect passenger privacy, civil rights, and civil liberties.

As we conduct our oversight, it is important to understand that the TSA professionals charged with protecting the traveling public have determined that this technology is necessary to detect the very real threats posed by al Qaeda and their affiliates.

Our role in this effort should be to provide constructive oversight to help TSA strike the right balance between the need for security and concerns about convenience, cost, health, and privacy.